

and the delay beyond that period is expected to be substantial, notice of that fact and the date by which it is expected that action will be taken is issued to the petitioner and published in the FEDERAL REGISTER.

§ 190.338 Appeals.

(a) Any interested person may appeal a denial of the Associate Administrator or the Chief Counsel, issued under § 190.333 or § 190.337, to the Administrator.

(b) An appeal must be received within 20 days of service of written notice to petitioner of the Associate Administrator's or the Chief Counsel's decision, or within 20 days from the date of publication of the decision in the FEDERAL REGISTER, and should set forth the contested aspects of the decision as well as any new arguments or information.

(c) It is requested, but not required, that three copies of the appeal be submitted to the Administrator.

(d) Unless the Administrator otherwise provides, the filing of an appeal under this section does not stay the effectiveness of any rule.

§ 190.339 Direct final rulemaking.

(a) Where practicable, the Administrator will use direct final rulemaking to issue the following types of rules:

(1) Minor, substantive changes to regulations;

(2) Incorporation by reference of the latest edition of technical or industry standards;

(3) Extensions of compliance dates; and

(4) Other noncontroversial rules where the Administrator determines that use of direct final rulemaking is in the public interest, and that a regulation is unlikely to result in adverse comment.

(b) The direct final rule will state an effective date. The direct final rule will also state that unless an adverse comment or notice of intent to file an adverse comment is received within the specified comment period, generally 60 days after publication of the direct final rule in the FEDERAL REGISTER, the Administrator will issue a confirmation document, generally within 15 days after the close of the comment period, advising the public that the di-

rect final rule will either become effective on the date stated in the direct final rule or at least 30 days after the publication date of the confirmation document, whichever is later.

(c) For purposes of this section, an adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. Comments that are frivolous or insubstantial will not be considered adverse under this procedure. A comment recommending a rule change in addition to the rule will not be considered an adverse comment, unless the commenter states why the rule would be ineffective without the additional change.

(d) Only parties who filed comments to a direct final rule issued under this section may petition under § 190.335 for reconsideration of that direct final rule.

(e) If an adverse comment or notice of intent to file an adverse comment is received, a timely document will be published in the FEDERAL REGISTER advising the public and withdrawing the direct final rule in whole or in part. The Administrator may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking. A notice of proposed rulemaking will provide an opportunity for public comment, generally a minimum of 60 days, and will be processed in accordance with §§ 190.311–190.329.

§ 190.341 Special permits.

(a) What is a special permit? A special permit is an order by which PHMSA waives compliance with one or more of the Federal pipeline safety regulations under the standards set forth in 49 U.S.C. 60118(c) and subject to conditions set forth in the order. A special permit is issued to a pipeline operator (or prospective operator) for specified facilities that are or, absent waiver, would be subject to the regulation.

(b) How do I apply for a special permit? Applications for special permits must be submitted at least 120 days before the requested effective date using any of the following methods: